



# County of Los Angeles CHIEF ADMINISTRATIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012  
(213) 974-1101  
<http://cao.co.la.ca.us>

DAVID E. JANSSEN  
Chief Administrative Officer

May 28, 2004


Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE BRATHWAITE BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

To: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Yvonne Brathwaite Burke  
Supervisor Michael D. Antonovich  
From:   
David E. Janssen  
Chief Administrative Officer

## WASHINGTON D.C. UPDATE

### Federal Legislative Summary and Outlook

When Congress returns next week from its Memorial Day recess, it faces key decisions on how to proceed on a stalemated Federal Fiscal Year (FFY) 2005 budget resolution, how to approach a host of expired reauthorization bills, and how to proceed on the 13 Federal Fiscal Year (FFY) 2005 appropriations bills.

Congress faces this large legislative workload with relatively little time in which to take action. Its legislative calendar is shortened by a one week Independence Day recess, followed by a six week recess beginning the last week of July to accommodate the Democratic and Republican conventions. When Congress returns after Labor Day, it hopes to complete action on the FFY 2005 budget before the tentative adjournment date of October 1, 2004. Overlaying the debate are considerations by both parties on how their positions on legislation could affect the outcome of the November elections.

**FFY 2005 Budget Resolution:** As previously reported to your Board, the Conference Committee on S. Con. Res. 95, the FFY 2005 Budget Resolution, does not instruct committees to reduce Medicaid spending. This greatly reduces the risk of legislation being enacted this year that would restrict the use of intergovernmental transfers (IGTs) to draw down Federal Medicaid funds or cap Medicaid payments to government health providers.

The House adopted the conference report on S. Con. Res. 95 on a 216-213 vote on May 19, 2004. Before recessing, the Senate did not act on the conference report because it would have been rejected due to opposition from Senate Republican moderates and Democrats who object to its lack of "pay as you go" language that would require any new tax cuts and spending increases to be offset for five years. It remains uncertain whether the Senate will be able to adopt the budget resolution after it reconvenes in June.

The House Republican leadership anticipated that the Senate might not adopt the conference report by securing House passage of H. Res. 649, a House rule which provides that the conference report will be deemed in force in the House even if it is not adopted in the Senate. As a result, the House Appropriations Committee will work within the overall discretionary spending caps in the conference version of the budget resolution when it acts on FFY 2005 appropriations bills, beginning in June. This means that overall discretionary spending on all non-defense and non-homeland security activities would grow by no more than 0.9 percent in FFY 2005. It is unclear how the Senate will proceed in absence of a budget resolution. In 2002 when no agreement was reached on the FFY 2003 budget resolution, Congress did not complete action on non-defense appropriations until February 2003, long after the mid-term elections.

**Medicaid:** As reported above, the FFY 2005 budget resolution does not include instructions to reduce Medicaid spending. The President's proposed FFY 2005 Budget would cut Medicaid spending by \$9.6 billion over five years by restricting the use of IGTs and capping Medicaid payments to government providers. To date, the Administration has not yet submitted any legislative language on these cuts despite Congressional requests for such language. The House Energy and Commerce has held two hearings on Medicaid financing at which members on both sides of the aisle supported how their states used IGTs. The Senate has not scheduled any hearings.

**Hospital Preparedness Grants:** This week, the Department of Health and Human Services announced the FFY 2004 grant awards for the hospital preparedness program. The County, which is one of only three local jurisdictions to receive a direct grant, will be allotted nearly \$15.6 million, the same as the FFY 2003 level. The grant seeks to improve the readiness of hospitals to respond to bioterrorism attacks, infectious diseases, and natural disasters that may cause mass casualties. The application deadline for the grant is July 1, 2004.

**Bioterrorism Fund Reallocation:** This week, the Centers for Disease Control and Prevention (CDC) announced that it planned to reallocate \$55 million of the \$865 million in FFY 2004 bioterrorism public health preparedness grant funds of which \$39 million would fund a new Cities Readiness Initiative (CRI) to improve the public health infrastructure in 21 populous, high-threat urban areas, including Los Angeles County.

Of the \$39 million in CRI funding, \$27 million would be allocated to state and local public health agencies, including a direct allocation of \$2.67 million to the County. The remaining \$12 million would be allocated to the U.S Postal Service to pay for training, supplies, and equipment needed to assist the 21 urban areas.

The \$55 million to be reallocated to the CRI and other public health infrastructure activities would come from bioterrorism public health grant funds that otherwise would be allocated to states and territories. Each state's FFY 2004 grant would be reduced by \$1,085,000 while each territory's grant would be reduced by \$108,500. The three local jurisdictions, including the County, which receive direct bioterrorism public health grant and CRI funds, will not have their base grants reduced. Therefore, the planned reallocation of funds would result in a net increase in overall bioterrorism public health funds for the County, which received \$24.53 million in FFY 2003.

**Temporary Assistance for Needy Families (TANF) Reauthorization:** Congress has not completed action on a TANF reauthorization bill. The authorization originally expired on September 30, 2002. In the interim, TANF has operated on a series of short-term extensions with the latest one expiring on June 30, 2004.

The House passed its bill (H.R. 4) in February 2003. The Senate floor debate on the Senate version began on March 29, 2004, but ended a few days later after a cloture vote to limit debate and block Democratic amendments was defeated. Both bills would reauthorize the program for five years at the current funding level of \$16.5 billion annually. Both would gradually increase the work participation rate requirement for states though the Senate's work requirements would be far less stringent and costly to meet than the House version. The Senate bill also provides states and TANF recipients with greater flexibility in meeting work participation requirements than the House bill, though less flexibility than current law. The Senate version also includes a County-opposed provision which would prohibit the Secretary of Health and Human Services from approving state waivers to allow childless adults to be covered under the State Children's Health Insurance Program (SCHIP/Healthy Families).

During the floor debate, the Senate adopted by a vote of 78 to 20, an amendment offered by Senator Snowe (R-ME) to increase child care funding by \$6 billion over the House level of \$1 billion. Soon thereafter, Democratic amendments on a number of labor issues, including increasing the minimum wage, brought the debate to a halt.

The Senate Finance Committee and the Senate Leadership are trying to work out a compromise to enable the Senate to adopt a bill in June. It is not clear, however, if their efforts will be successful. Senate Democrats are concerned that, even if the Senate were to pass a TANF reauthorization bill which is acceptable to them, any conference committee version is likely to be far closer to the House version, which they oppose.

Absent a compromise, it is likely that Congress will enact another short-term extension of the program.

**Food Stamp Penalty Relief:** As reported to your Board earlier this week, the State of California and the U.S. Department of Agriculture reached a settlement agreement, which drastically reduces the State's liability for Food Stamp quality control penalties. The State had been facing a total combined penalty of \$185.4 million for FFYs 2000 through 2002 of which the County's share totaled \$143.1 million. The State was given credit for activities already taken to lower the error rate and agreed to continue current reform efforts. The State's only potential liability involves \$62.5 million which is held "at-risk" and must be reinvested in program improvements if the State were to fail to meet specified Food Stamp error rate targets in FFYs 2003 through 2007. The State has not indicated whether counties would be required to pay a portion of any at-risk reinvestment amount.

**Workforce Investment Act (WIA) Reauthorization:** Although both the House and Senate passed their respective WIA reauthorization bills (H.R. 1261; S. 1627) last year, conferees have not been named, and there is no indication that they will be named in the near future. Senate Democratic leadership has said that it will not name conferees unless Democrats are assured a significant role in the Conference Committee.

If conferees are named, the House and Senate would have to resolve at least two contentious issues. The House bill includes the Administration's proposal to consolidate three major programs (Adult, Dislocated Workers, and State Employment Service) into a block grant to states. The House version also would enable faith-based organizations to apply for WIA grants and hire employees based on their religion. Neither provision is contained in the Senate bill. Resolving these issues will likely become even more difficult as the November elections approaches.

**State Criminal Alien Assistance Program (SCAAP):** The House and Senate Commerce-Justice-State (CJS) Appropriations Subcommittees, which have jurisdiction over SCAAP, have not yet scheduled a mark-up of their respective FFY 2005 CJS appropriations bills. In the House, the California Republican delegation sent a letter to the chairman of the House CJS Appropriations Subcommittee requesting \$750 million for SCAAP while the California Democratic delegation sent a letter requesting \$850 million. As in past years, the Administration proposes to terminate SCAAP.

In the Senate, which has historically appropriated less SCAAP funds than the House, Senator Feinstein's office recently convened a meeting with key staff on SCAAP funding. Participants included majority and minority Senate CJS Appropriations Subcommittee staff, Department of Justice officials responsible for administering SCAAP, Governor Schwarzenegger's Washington advocates, and County Advocate

Franklin Logan. The meeting provided an opportunity to educate key appropriations subcommittee staff on how the program works and its importance.

**Homeland Security:** As previously reported, the House Select Committee on Homeland Security reported H.R. 3266 (Cox, R-CA), the Faster and Smarter Funding for First Responders Act of 2004, on March 18, 2004. This bill would allocate first responder grants based on terrorist threat and critical infrastructure without the small state minimum funding floor in current law which disadvantages more populous states, such as California. It also would allow regions, such as the County, to receive direct funding.

At the direction of the Speaker of the House, H.R. 3266 has been referred to three other committees (Judiciary, Transportation and Infrastructure, and Energy and Commerce), which have a deadline of June 7, 2004 to complete action on the legislation. The Energy and Commerce Committee and the Transportation and Infrastructure Committees held hearings on the bill prior to the Memorial Day recess and are expected to mark up the bill immediately following the recess.

Two Senate homeland security bills, S. 1245 (Collins, R-ME) and S. 930 (Inhofe, R-OK), contain small state minimum funding requirements which benefit less populous states. Due, in part, to the controversy over the small state minimum, the Senate has yet to schedule floor consideration of either bill. In the meantime, Senators Feinstein and Levin (D-MI) have been working to lessen the impact of the small state minimum requirement on more populous states. Given the contentious nature of changing the allocation of homeland security funds, it is highly doubtful that homeland security grant legislation other than the FFY 2005 Homeland Security Appropriations bill will be enacted this year. Congressional action on the Homeland Security Appropriations bill should proceed faster than other appropriations bills as the budget resolution provides for an 11.6 percent increase in overall spending on homeland security activities.

**Firefighter Assistance Grants:** On May 12, 2004, the House Committee on Science held a hearing to examine the Assistance to Firefighters Grant Program and to receive testimony on H.R. 4107, the Assistance to Firefighters Grant Reauthorization Act of 2004, sponsored by Science Committee Chairman Boehlert (R-NY).

Current law greatly disadvantages large fire departments, such as the County's, which serves about four million persons residing in 57 cities and unincorporated areas of the County. Under current law, a fire department may receive no more \$750,000 in firefighting grant funds, which represents about 0.1 percent of total funding. In comparison, the County's Fire Department serves nearly 1.4 percent of the total U.S. population. Moreover, the current non-Federal share of costs is 30 percent for fire departments serving a population over 50,000, but only 10 percent for those serving

under 50,000. As reported in the April 1, 2003 Federal update to your Board, the County's Washington advocates, therefore, were pursuing a more equitable allocation of firefighting grant funds.

H.R. 4107 would make current law more equitable for large fire departments by increasing the cap on grants from \$750,000 to \$3 million for fire departments that serve more than 1 million persons, \$2 million for jurisdictions that serve between 500,000 and 1 million persons, and \$1 million for all other departments. Also, the non-Federal matching requirement for departments that serve more than 50,000 persons would be reduced from 30 percent to 20 percent. While no committee mark-up for H.R. 4107 has been scheduled, the bill appears to have broad bipartisan support.

**Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) Reauthorization:** In June, House and Senate conferees are expected to begin reconciling the differences between their respective TEA-21 reauthorization bills (H.R. 3550/S. 1072). One of the most critical and contentious issues will be the overall amount of funding available over the six-year reauthorization period. The House bill is funded at \$284 billion, while the Senate would provide \$318 billion. The Administration, however, has threatened to veto any bill providing more than \$256 billion although it has hinted that it may accept funding of up to \$275 billion.

There are three County-requested projects in H.R. 3550 totaling \$7 million that were sponsored by Representatives Millender-McDonald (\$3 million for Del Amo Blvd.), Miller (\$1 million for Colima Road), and Waxman (\$3 million for tunnel linings). The House did not fund two other projects requested by the County. The County has approached Senators Feinstein and Boxer to support a \$4 million project for State Route 138 and a \$2 million project for Gale Ave, respectively. Whether those projects are included remains uncertain because the Senate does not fund projects until a conference committee convenes.

It remains uncertain whether conferees can reach agreement before the current short-term TEA-21 extension expires on June 30, 2004. Besides the overall funding level, there are other contentious issues that must be resolved, including the issue of how available funds are allocated. California is one of the many "donor" states, which contribute significantly more in Federal gasoline tax revenues into the highway trust fund than they receive in highway funding. While current law provides for a 90.5 percent "return-to-source" guarantee of their gas tax contributions, a coalition of donor states, including California, want this guarantee to be increased to 95 percent in the TEA-21 reauthorization bill. Such an increase, however, would be difficult to secure unless overall funding is higher than the level acceptable to the Administration.

**Base Realignment and Closure (BRAC) Process:** As part of the Federal Fiscal year (FFY) 2005 defense authorization bill, efforts have been made to delay the 2005 process to close military bases, which would affect the future of the Los Angeles Air Force Base. The House version (H.R. 4200) includes a two-year delay in the BRAC process. A House floor amendment to delete the two-year delay provision was defeated 162 to 259 with 103 Republicans supporting the two-year delay.

The Senate will resume floor debate on its version (S. 2400) when it returns in June. Earlier this month, the Senate rejected, 47-49, an amendment by Senator Lott (R-MS) to eliminate the BRAC process entirely. Senator Feinstein joined Lott as a co-sponsor, and Senator Boxer voted for the amendment. Senate Armed Services Committee Chairman Warner (R-VA) and Ranking Member Levin (D-MI) opposed the Lott amendment.

The Administration has threatened to veto the bill if the BRAC process is delayed. Because the defense authorization is a high-priority bill for both Congress and the Administration, it is uncertain that the Administration would act upon its threat if House and Senate conferees agreed to delay the process.

#### **Pursuit of County Position on Legislation**

**Emergency Management and Hazard Mitigation:** The Administration's proposed FFY 2005 Budget includes a number of proposals relating to emergency management and hazard mitigation activities, which are administered by the Department of Homeland Security (DHS). One proposal would shift funding for Emergency Management Performance Grants (EMPG), Community Emergency Response Teams (CERT), and Citizens Corps grants from the Office of Emergency Preparedness and Response (formerly FEMA) to the Office for Domestic Preparedness (ODP), thus placing an emphasis on anti-terrorist activities rather than on all-hazards emergency management.

The County's Office of Emergency Management (OEM) and the National Emergency Management Association (NEMA) are concerned that this transfer would undermine the established foundations of emergency management -- a comprehensive approach that integrates local, state and federal mitigation, preparedness, response and recovery planning for all hazards, whether natural or man-made. They also believe that it would reduce the flexibility that state and local governments need for mitigation, preparedness, response, and recovery from a wide range of natural and man-made disasters.

In addition to shifting EMPG to ODP, the proposed budget includes only \$170 million for this program, which is a \$9 million reduction from FFY 2004, and \$260 million short of the nationwide needs, according to NEMA. The proposal also sets a 25 percent cap on the use of these funds for personnel. According to a survey of states conducted by

Each Supervisor  
May 28, 2004  
Page 8

NEMA, potential staffing losses of up to 60 percent could result from this arbitrary cap. According to NEMA, without adequate staffing for state and local emergency management operations, the capacity to prevent, prepare for, respond to, and recover from all disasters and emergencies will collapse.

The Federal Agenda, adopted on January 20, 2004, includes policies that support: increased funding for FEMA for earthquake preparedness, disaster mitigation, and emergency management and greater local flexibility over the use of funds, including the use of funds to pay for personnel. **Consistent with these Board policies, our Washington advocates will oppose the shift of EMPG, CERT, and Citizen Corps funding from the Office of Emergency Preparedness and Response to ODP; support additional funding for the EMPG program; and oppose the 25 percent cap on the use of EMPG funds for personnel in state and local emergency management operations.**

We will continue to keep you advised of any new developments.

DEJ:GK  
MAL:MT:ib

c: Executive Officer, Board of Supervisors  
County Counsel  
All Department Heads  
Legislative Strategist